

Senate File 2033 - Introduced

SENATE FILE 2033

BY RAGAN

A BILL FOR

1 An Act providing for the criminal offense of service dog abuse,
2 and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 717B.1, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8A. "*Service dog*" means the same as defined
4 in section 216C.11.

5 Sec. 2. NEW SECTION. 717B.10 **Service dog abuse.**

6 1. A person commits the offense of service dog abuse if all
7 of the following apply:

8 a. The person owns or possesses a dog which attacks a
9 service dog.

10 b. The service dog has been individually trained to perform
11 work or tasks related to the dog handler's disability and
12 the service dog routinely performs such work or tasks at the
13 direction or on the behalf of the service dog's handler, by
14 assisting the handler who is disabled by any of the following
15 diagnosed conditions:

16 (1) Mobility impairment.

17 (2) Blindness or a visual impairment.

18 (3) Deafness or an audio impairment.

19 (4) A psychiatric condition, including a cognitive,
20 psychiatric, or neurological condition.

21 (5) A health condition, including but not limited to
22 seizures.

23 2. Subsection 1 does not apply in any of the following
24 circumstances:

25 a. The attacking dog is owned or possessed by the owner or
26 handler of the service dog at the time of the attack.

27 b. The service dog was not under the control or direction of
28 its owner or handler at the time of the attack.

29 c. The service dog exhibited aggressive behavior immediately
30 prior to the attack.

31 3. a. Except as provided in paragraph "b", a person who
32 commits service dog abuse is guilty of a simple misdemeanor.

33 b. A person who commits service dog abuse is guilty of a
34 serious misdemeanor when any of the following applies:

35 (1) The attack was directly caused by the person's willful,

1 malicious, or reckless act.

2 (2) The service dog was attacked in a manner that caused
3 death, permanent disfigurement, or permanent disability.

4 (3) The person has been convicted three or more times in
5 the previous ten years of committing an offense under section
6 717B.2, 717B.3, 717B.3A, or 717B.9, or this section.

7 4. In addition to a penalty imposed under subsection 3,
8 the court shall order a defendant convicted of or receiving a
9 deferred judgment for service dog abuse to make restitution
10 for pecuniary damages pursuant to chapter 910. The amount of
11 pecuniary damages ordered to be paid to the victim by a court
12 shall be limited to expenses for veterinary care, the temporary
13 or permanent replacement of the service dog, and other
14 reasonable expenses incurred as a direct result of the attack.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 GENERAL. This bill amends Code chapter 717B, which provides
19 for offenses relating to the mistreatment of animals defined
20 not to include livestock or game (Code section 717B.1).

21 SERVICE DOG ABUSE — NEW CRIMINAL OFFENSE. The bill creates
22 a criminal offense referred to as service dog abuse. A service
23 dog is a dog specially trained to assist a person with a
24 disability. Code chapter 216C provides rights to persons
25 with disabilities including the right to be accompanied by a
26 service dog (Code section 216C.11). This new offense would be
27 committed when a person owns or possesses a dog which attacks
28 a service dog, if the service dog was individually trained to
29 perform functions related to a diagnosed disability. The bill
30 specifically excludes certain circumstances including when the
31 two dogs are owned by the same person, or a service dog was
32 either not under the control of its owner or handler or behaved
33 aggressively.

34 SERVICE DOG ABUSE — PENALTIES AND RESTITUTION. Generally,
35 a person convicted of service dog abuse is guilty of a simple

1 misdemeanor. However, a person owning or possessing the
2 attacking dog is guilty of a serious misdemeanor if the attack
3 was directly caused by the person's willful, malicious, or
4 reckless act; the service dog was critically injured or killed;
5 or the person has been convicted three or more times in the
6 previous 10 years of an offense under the Code chapter. The
7 person must also pay restitution to the victim for certain
8 expenses incurred by the attack, including for veterinary care
9 or for the replacement of the service dog (see Code chapter
10 910).

11 BACKGROUND. Animal abuse is committed when a person
12 intentionally causes an animal injury or disfigurement or kills
13 an animal. A person committing animal abuse is guilty of an
14 aggravated misdemeanor (Code section 717B.2). Animal neglect
15 is committed when a person who confines an animal fails to
16 properly care for the animal or otherwise injures or kills an
17 animal in a manner that causes unjustified suffering. A person
18 committing animal neglect is guilty of a simple misdemeanor,
19 unless the person intentionally commits an act which results
20 in serious injury to or the death of the animal. In those
21 circumstances the person is guilty of a serious misdemeanor
22 (Code section 717B.3). Animal torture is committed when a
23 person inflicts severe physical pain upon an animal with a
24 depraved or sadistic intent to cause prolonged suffering or
25 death. For the first conviction, the person is guilty of
26 an aggravated misdemeanor and for the second or subsequent
27 conviction, the person is guilty of a class "D" felony. The
28 sentencing order must also order the person to submit to
29 psychological evaluation and treatment (Code section 717B.3A).
30 Injury or interference with a police service dog is committed
31 when a person knowingly, willfully, or maliciously abuses a
32 police service dog. A person committing the offense is guilty
33 of a serious misdemeanor, unless the person's act involves
34 torture, serious injury, or death. In those circumstances the
35 person is guilty of a class "D" felony (Code section 717B.9).

1 CRIMINAL PENALTIES. A simple misdemeanor is punishable by
2 confinement for no more than 30 days or a fine of at least
3 \$65 but not more than \$625 or by both. A serious misdemeanor
4 is punishable by confinement for no more than one year and a
5 fine of at least \$315 but not more than \$1,875. An aggravated
6 misdemeanor is punishable by confinement for no more than two
7 years and a fine of at least \$625 but not more than \$6,250. A
8 class "D" felony is punishable by confinement for no more than
9 five years and a fine of at least \$750 but not more than \$7,500.